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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,429	04/02/2001	Alan L. Backus	42205	9834

7590

05/16/2005

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EXAMINER

ALEXANDER, REGINALD

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/824,429

Applicant(s)

BACKUS ET AL.

Examiner

Reginald L. Alexander

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 72-82, 88, 90 and 91 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 72-82 and 91 is/are allowed.
- 6) ☒ Claim(s) 88 and 90 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 88 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of Matsushima et al. and Prood

There is disclosed in Wang a rotisserie oven for cooking food, comprising: an enclosure 1 having a roof 5a, a wall 5 and a curved section extending from the wall to the roof; a heating element 12, 27 inside the enclosure; means 17, 25 for rotating the food about a horizontal axis and by the heating element (see figure 4); and a vent (see figures 2, 6) located in the curved section.

There is disclosed in Matsushima an oven for cooking food, comprising: an enclosure 1 that includes walls; a heating element 5, 6 inside the enclosure; means 25, 26 for rotating the food by the heating element; and a plurality of vents (louvers) 22a, 22b, 38a, 38b located in one of the walls or the enclosure, the vents having an indent extending into the enclosure with an opening at the top of the indent.

There is disclosed in Prood a spit assembly (C) comprising plural plates 9, each having a center and rods 7, 8, wherein the spit assembly does not include any structure extending from the center of one plate and connecting to the center of any other plate

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It would have been obvious to one skilled in the art to modify the vents of Wang with that taught by Matsushima, in order to improve the efficiency of the vents and prevent damage to structure holding the oven. Additionally, it would have been obvious to one skilled in the art to substitute the horizontal food support of Wang with that disclosed in Prood, in order to allow support of more food items in the enclosure.

In regards to claims 74 and 76, the movement of air within the oven enclosure is seen as a method step and fails to describe any structural arrangement.

#### ***Allowable Subject Matter***

Claims 72-82 and 91 are allowed.

#### ***Response to Arguments***


Applicant's arguments filed April 28, 2005 have been fully considered but they are not persuasive. Applicant argues that the prior art fails to disclose an exhaust vent. Applicant states that while there are disclosed parallel lines on the cover of Wang, there is no opening from the heating cavity to the outside present. A view of figure 2 appears to show several openings which project through the cover which would act as a venting arrangement when heat is built up in the housing. The vent arrangement can also be seen in figures 6 and 7 located in the top of the housing. Due to the pressure difference between the outside and that of the heated cavity the heat would tend to flow from the housing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla  
May 12, 2005

  
Reginald L. Alexander  
Primary Examiner  
Art Unit 1761